

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

Deva Ram

Vs. State of Rajasthan

S.B.CR.MISC.IIIrd BAIL APPL. NO.4738/2006

DATE OF ORDER

::

November 01, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.B.S.Rathore, for the petitioner.
Mr.Ashok Upadhyaya, Public Prosecutor.

BY THE COURT:

This is third bail application. The first bail application came to be dismissed by this Court on 02.6.2006. Thereafter, the petitioner filed second bail application without impugning the order of Special Judge, N.D.P.S. Act, Cases, Jodhpur dt. 7.10.2006 and, therefore, the second bail application was withdrawn without arguing with the liberty to file a fresh bail application challenging the order of the Special Judge, N.D.P.S. Act, Cases, Jodhpur dt. 7.10.2006.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State. Carefully gone through the challan papers.

After rejecting the earlier bail applications, the prosecution has examined the material witnesses more particularly the witnesses viz. PW.2 Heera Lal and PW.3 Daya Ram on the basis of their evidence, the petitioner was connected with the offence. Both these witnesses did not support the prosecution case and turned hostile. Nothing has been recovered from the present petitioner. The only case as set up by the prosecution was that the petitioner was seen moving around. However, those witnesses viz. PW.2 Heera Lal and PW.3 Daya Ram, who stated that the petitioner was seen, did not state this fact before the trial court on oath and as such did not support the prosecution case.

Learned counsel for the petitioner submits that there is absolutely no other evidence on record connecting the present petitioner with the offence. Be that as it may, without commenting on the merit of the case, which may prejudice the case of either party at the trial, keeping in view the evidence of PW.2 and PW.3, in my view the provision of section 37 Cr.P.C. would not be attracted in view of the statements made by the

witnesses not supporting the prosecution case qua present petitioner, I consider it just and proper to enlarge the accused petitioner on bail.

Accordingly, this bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Deva Ram s/o Veerma Ram Patel be released on bail in FIR No.148/2005, P.S. Rohit, Distt. Pali provided he furnishes a personal bond in a sum of Rs.20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR),J.

m.asif/-